

SENATE BILL No. 497

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5; IC 6-9-0.5; IC 36-1-24-20.

Synopsis: Taxation of short term rentals. Provides that if a person rents or furnishes rooms, lodgings, or accommodations for consideration for periods of less than 30 days, the owner of the real property is the retail merchant responsible for collecting and remitting any sales tax imposed on the rental income received for the rental. Provides that a facilitator becomes responsible for remitting sales tax on a rental arranged by the facilitator only if the facilitator accepts payment from the consumer for a charge designated as sales tax and subsequently fails to forward the sales tax to the owner. Provides a sales tax exemption for an owner of a house, condominium, or apartment who rents or furnishes rooms, lodgings, or other accommodation in the owner's house, condominium, or apartment if the house, condominium, or apartment is the owner's principal residence and the owner rents or furnishes the rooms, lodgings, or other accommodations for fewer than 10 days in a calendar year (residential sales tax exemption). Provides that in Lake County, Marion County, and Allen County, where the innkeeper's taxes may apply to the renting or furnishing of rooms, lodgings, or other accommodations in a house, condominium, or apartment, whenever the residential sales tax exemption applies to the transaction, the transaction is also exempt from the innkeeper's tax.

Effective: Upon passage; July 1, 2019.

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January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 497

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-1-22.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 22.1. As used in IC 6-2.5-4-4,**
4 **as amended by P.L.20-1990, SECTION 7, the phrase "other place,**
5 **where rooms, lodgings, or accommodations are regularly furnished**
6 **for consideration" may include a house, condominium, or**
7 **apartment.**
8 SECTION 2. IC 6-2.5-4-4, AS AMENDED BY P.L.181-2016,
9 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2019]: Sec. 4. (a) A person is a retail merchant making a retail
11 transaction when the person rents or furnishes rooms, lodgings, or other
12 accommodations, such as booths, display spaces, banquet facilities, and
13 cubicles or spaces used for adult relaxation, massage, modeling,
14 dancing, or other entertainment to another person:
15 (1) if those rooms, lodgings, or accommodations are rented or
16 furnished for periods of less than thirty (30) days; and
17 (2) if the rooms, lodgings, and accommodations are located in:



(A) a hotel, motel, inn, tourist camp, tourist cabin, gymnasium, hall, coliseum, or other place, where rooms, lodgings, or accommodations are regularly furnished for consideration; or
 (B) a house, condominium, or apartment in which rooms, lodgings, or accommodations are rented or furnished for transient residential housing for consideration.

(b) A facilitator is a retail merchant making a retail transaction when the facilitator accepts payment from the consumer for a room, lodging, or accommodation rented or furnished in Indiana.

(c) Except as provided in section 4.2 of this chapter, each rental or furnishing by a retail merchant under subsection (a) or (b) is a separate unitary transaction regardless of whether consideration is paid to an independent contractor or directly to the retail merchant.

(d) For purposes of this section, "consideration" includes a membership fee charged to a customer.

(e) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction if:

(1) the person is a promoter that rents a booth or display space to an exhibitor; and

(2) the booth or display space is located in a facility that:

(A) is described in subsection (a)(2); and

(B) is operated by a political subdivision (including a capital improvement board established under IC 36-10-8 or IC 36-10-9) or the state fair commission.

This subsection does not exempt from the state gross retail tax the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

(f) As used in this subsection and subsection (g), "owner" means a person who has an interest in title of real property used for rentals of less than thirty (30) days, whether a fee interest, a beneficial interest, life estate, partnership, corporate interest, or other similar present possessory interest. Except as otherwise provided in IC 6-2.5-5-53, the owner is the retail merchant responsible for collecting and remitting any state gross retail tax imposed on the gross retail income received from rentals under this section. Any deficiency in the amount of the tax may be assessed against the owner. However, the owner may enter into an agreement with a facilitator to collect and remit this tax. If the facilitator accepts payments for rentals under this section and does not forward to the owner money accepted as state gross retail tax, and designated as state gross retail tax under 6-2.5-4-4.2, then the facilitator is the retail merchant for that transaction and is



1 responsible for remitting any state gross retail tax due.

2 (g) An owner may also be liable for collecting and remitting
3 innkeeper's taxes under IC 6-9 on the gross retail income received
4 under this section. Subsection (f) also applies to any innkeeper's
5 taxes that may be due under IC 6-9.

6 SECTION 3. IC 6-2.5-5-53 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2019]: Sec. 53. If:

9 (1) at least one (1) owner of a house, condominium, or
10 apartment maintains the house, condominium, or apartment
11 as the owner's principal residence; and

12 (2) the owner furnishes rooms, lodgings, or other
13 accommodations in the house, condominium, or apartment
14 for consideration for fewer than ten (10) days in a calendar
15 year;

16 the transactions involving the furnishing of the rooms, lodgings, or
17 other accommodations in the house, condominium, or apartment
18 for consideration during the calendar year are exempt from the
19 state gross retail tax, regardless of whether the owner arranged for
20 the renting or furnishing of the rooms, lodgings, or other
21 accommodations to another person through a facilitator.

22 SECTION 4. IC 6-9-0.5 IS ADDED TO THE INDIANA CODE AS
23 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2019]:

25 **Chapter 0.5. General Provisions**

26 Sec. 1. (a) Except as provided in subsection (b), the following
27 innkeeper's tax statutes apply, in addition to any other place
28 explicitly specified in those statutes, to rooms, lodgings, or other
29 accommodations in a house, condominium, or apartment that are
30 regularly furnished for consideration for less than thirty (30) days:

31 (1) IC 6-9-2 (Lake County).

32 (2) IC 6-9-8 (Marion County).

33 (3) IC 6-9-9 (Allen County).

34 (b) The exemption provided by IC 6-2.5-5-53 from the state
35 gross retail tax applies also to an innkeeper's tax imposed under an
36 innkeeper's tax statute specified in subsection (a).

37 (c) A person who regularly furnishes rooms, lodgings, or other
38 accommodations in a house, condominium, or apartment for
39 consideration for less than thirty (30) days may also be liable under
40 IC 6-2.5-4-4 for collecting and remitting state gross retail tax on
41 the gross retail income (as defined in IC 6-2.5-1-5) received for the
42 rental of the rooms, lodgings, or other accommodations for less



1 **than thirty (30) days.**
2 SECTION 5. IC 36-1-24-20 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2019]: **Sec. 20. An owner of short term rental property who**
5 **makes a short term rental may be liable for collecting and**
6 **remitting the following taxes on consideration received by the**
7 **owner for the short term rental:**
8 **(1) State gross retail tax imposed under IC 6-2.5-4-4.**
9 **(2) Innkeeper's tax imposed under IC 6-9.**
10 SECTION 6. **An emergency is declared for this act.**

